

LONG-TERM CARE IN BRIEF: EXPLAINING CHANGES TO THE MEDICAID HCBS STATE PLAN OPTION

HR 3590, Sec. 2402: Removal of Barriers to Providing Home and Community-Based Services

The Patient Protection and Affordable Care Act (PPACA), signed into law on March 23, 2010, includes reforms to the Medicaid HCBS state plan option by removing certain restrictions to allow states more flexibility in using the state plan amendment option to provide HCBS services to Medicaid beneficiaries. Specifically, the bill's removal of barriers to providing home and community-based services (HR 3590, Sec.2402), means that income eligibility criteria and limitations on scope of services will be relaxed, states will have the option to target specific populations in need, and provide full Medicaid benefits to qualifying beneficiaries.

What system improvements will there be? The Secretary will develop rules and regulations to ensure that all states develop home and community based service systems are responsive to beneficiaries, that assist consumers in developing a self-directed treatment plan, and that improve coordination among public programs.

Will states be allowed to modify clinical eligibility standards? States will still be permitted to modify clinical eligibility standards for the state plan benefit, but will no longer be allowed to cap the number of individuals receiving coverage. If a state does modify its eligibility standards, individuals receiving coverage under the state plan at the time of the modification will not be subject to the new eligibility requirements. Rather, the twelve month eligibility grace period will be eliminated, and these individuals will be grandfathered in, and will continue to receive services as long as the individual maintains eligibility in accordance with the pre-modification criteria under which the beneficiary originally qualified.

What are the changes to the eligibility categories? The PPACA creates two optional eligibility categories for beneficiaries to receive Medicaid services. The first category allows individuals who not only meet the state's clinical eligibility standard, but also and have incomes below 300 percent of the SSI benefit rate to receive HCBS services. The second category allows states to provide full Medicaid benefits to individuals receiving home and community based services under a state plan amendment.

Will states be allowed to target services? In part because the PPACA allows states to waive Medicaid's comparability requirements, states will be able to target benefits to individuals with particular conditions. Specifically, states will be given the option of amending their state plans to target HCBS services to specific populations for a renewable period of five years. During this five year period, states may phase in enrollment, service provision, or both, provided that at the end of the term, all eligible individuals are enrolled and receiving all applicable HCBS services.

How are the scope and availability of services affected? The PPACA removes the limitation on scope of services that the state is allowed to provide, allowing states to increase the services available to individuals who qualify for the state plan benefit. Additionally, the new law eliminates the state’s flexibility to waive Medicaid’s statewideness requirement, effectively expanding the geographical areas where services will be available.

Who is eligible to receive these HCBS services? A state that provides home and community based services to individuals who meet the needs based criteria may continue to do so. Additionally, states now have the option to establish two new categories of beneficiaries, allowing states to provide home and community based services to income-eligible individuals qualifying to receive these services under a state waiver, and to provide full Medicaid benefits to qualifying home and community based service beneficiaries. States may also, through a state plan amendment, elect to target services to specific populations. Individuals receiving coverage at the time a state modifies its eligibility criteria will continue to do so until such time as the individual is no longer eligible under the pre-modification criteria.

IMPORTANT DATES

The first day of the first fiscal year quarter that begins after the date of enactment

These provisions will take effect